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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EVA CRON,

Plaintiff,

v.

ANDREA LITTLETON, M.D., JEAN-CHARLES  
SASHENKA, M.D., SUSHIL K. DHAWAN, M.D.,  
D.P.M., ELLENVILLE REGIONAL HOSPITAL  
FOUNDATION, INC. d/b/a ELLENVILLE  
REGIONAL HOSPITAL, MIDDLETOWN  
MEDICAL, P.C., JOHN S. JULIANO, M.D., and  
CRYSTAL RUN HEALTHCARE, L.L.P.,

Defendants.

18 Civ. \_\_\_\_\_ ( )

**NOTICE OF REMOVAL**

From the Supreme Court of the  
State of New York, County of Orange

Index No. EF004408-2016

Defendants Andrea Littleton, M.D. and Sashenka Jean-Charles, M.D.,<sup>1</sup> (together, the “Federal Defendants”), by and through their attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, hereby remove the above-captioned action to the United States District Court for the Southern District of New York. The grounds for removal are as follows:

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<sup>1</sup> Although captioned as “Jean-Charles Sashenka,” the correct first and last name is Sashenka Jean-Charles.

1. The Federal Defendants are among the named defendants in an action filed on or about July 7, 2016, in the Supreme Court of the State of New York, County of Orange, Index No. EF004408-2016. A copy of the Summons and Complaint is attached hereto as Exhibit A.

2. Plaintiff claims that the Federal Defendants and others negligently provided medical treatment to her between approximately October 25, 2014, and November 8, 2014. Among other things, Plaintiff alleges that the Federal Defendants failed to properly treat and address an infection at or near a surgical incision in the right hip and gluteal regions of her body; Plaintiff further alleges that she suffered various injuries as a result of the Federal Defendants' putative malpractice, and seeks money damages.

3. Pursuant to the Public Health Service Act, as amended by the Federally Supported Health Centers Assistance Act of 1995, 42 U.S.C. § 201 et seq., the Federal Defendants were deemed to be employees of the United States Government, effective January 1, 2013, for purposes of civil actions seeking damages for personal injury resulting from the performance of medical, surgical, dental, or related functions. *See* 42 U.S.C. § 233(a), (g), and (h).

4. The Federal Tort Claims Act, 28 U.S.C. § 1346(b), 1402(b), 2401(b), and 2671-2680, provides the exclusive remedy with respect to Plaintiff's claims against the Federal Defendants. *See* 42 U.S.C. § 233(a).

5. This action may be removed to this Court pursuant to 42 U.S.C. § 233(c) and 28 U.S.C. § 2679(d)(2) because: (i) trial has not yet been had of this action; and (ii) this is a civil action brought against (among others) employees of the United States Government who were acting within the scope of their employment. Attached as Exhibit B is the Certification of Geoffrey S. Berman, United States Attorney for the Southern District of New York, certifying

that the Federal Defendants were employees of the United States and were acting within the scope of their employment for purposes of Plaintiff's claims against them.

6. Venue is proper in this district under 28 U.S.C. § 2679(d)(2) because the state court where the action has been pending is located in this district.

7. The submission of this notice of removal is solely for the special, limited purpose of removing this action to the appropriate federal court and is not a general appearance by the Federal Defendants. This Office makes a limited appearance on behalf of the Federal Defendants solely for the purpose of removal of this action. This submission does not constitute a waiver of any defense available to any defendant, or the Government, including any defense under Federal Rule of Civil Procedure 12.

Dated: New York, New York  
April 30, 2018

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Southern District of New York  
*Attorney for the Federal Defendants and the  
United States of America*

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